

## Questions and Answers/September 2, 2010, Webinar

1. Would DESE consider funding private programs for part B kids if their district doesn't offer services/?

Answer: I believe you are referring to the possible change from a mandatory Early Childhood Special Education requirement, to a voluntary state-funded system in which a district's participation is voluntary. There would be no authority and no appropriation for the Department to fund private programs.

2. If an IEP high school student decides to be homeschooled do I continue to send him IEP notices when he chooses to not access sped services?

Answer: In Missouri, a home-schooled student is treated as a private/non-public school student for purpose of accessing special education services under IDEA. This means that if the district, in order to meet the "proportionate share requirement" of the Individuals with Disabilities Education Act (IDEA) decides to offer services to this particular student, and the student declines, the district has no obligation to do anything further, except possibly offer a reevaluation at the appropriate time. There is no context for an IEP for such a student, and therefore no notice of IEP meeting would be required.

3. Has there been any word or movement from Washington DC on reauthorization of NCLB or IDEA?

Answer: What I have heard as recent as mid-August, is that this is moving very, very slowly.

4. Are state and local dollars for MOE considered part of IDEA funding?

Answer: I believe this is a follow-up question to the discussion on the webinar about a possible change in ECSE in which I referred to the state's maintenance of fiscal effort under IDEA. The State's requirement, to maintain the same level of state funding from the prior year, does not consider local dollars.

5. ECSE Question: Can DESE put together a list of possible scenarios for ECSE? Districts must begin to plan for next year this fall.

Answer: As I understand it, if a legislative change is pursued, the legislation would provide for the change to occur one year after the effective date of the legislation, to allow districts plenty of time to prepare for a voluntary state funded program.

6. What is the difference between specially designed instruction and curriculum designed for the unique needs of a child?

Answer: The term "specially designed instruction" is a term of art that presumes the child has been found eligible for special education. It is a term used to define special education under the state and federal regulations implementing IDEA. That definition of special education actually includes a definition of "specially designed instruction" which can be viewed on page 10 of the state regulations at: [http://www.dese.mo.gov/divspeced/stateplan/documents/Regulation\\_I\\_2010.pdf](http://www.dese.mo.gov/divspeced/stateplan/documents/Regulation_I_2010.pdf). I am not sure what is meant by "curriculum" designed for a child. Curriculum is not designed for an individual child; however, a child can be taught curriculum through various methods or modalities that meets his unique learning style or addresses his unique needs. That concept is not specific to special education. Curriculum is the plan and instruction is the delivery method.

7. Can a special education teacher provide interventions to regular education students?

Answer: I am assuming you are referring to a three-tiered model/response to intervention system. The special education teacher, if paid with 100% IDEA funds, cannot provide interventions to a regular education student. If however, the teacher is paid partially with IDEA funds, and keeps a time and effort log, and provides those interventions when paid with local or state monies, there is no problem.

8. Is the school responsible for providing a nurse to accompany a student to the local hospital for medical based speech therapy? The student has a full time nurse at school. The parents wish the student to get therapy at the hospital one time a week during the school day. Would it not be the parent's responsibility to get the student there and return the child back to school? The school should not provide transportation. Is this correct?

Answer: It is an IEP team decision as to whether the student needs the speech therapy in order to receive a free appropriate public education (FAPE); if the team determines that the speech therapy is not needed to receive FAPE, then the IEP team does not provide for speech therapy in the IEP and there would be no context for the school district to transport the child to and from the hospital for speech therapy.

9. When providing Procedural Safeguards to a Private / Parochial student - do they also get the Parents Bill of Rights & is there another sheet in regards to safeguards that a private / parochial student is not entitled to?

Answer: There is no separate version to provide to private/non-public school parents.

10. IDEA prohibits providing special education to a child without an IEP. Thus, if a school is providing education individualized to a particular student based on the child's unique needs, does DESE consider that special education?

Answer: Just because a teacher is tailoring education for an individual student does not mean the teacher is providing special education. Using different methods or strategies with different students based on a student's different learning style is considered good instruction.

11. Is it ok to give the Parent's Bill of Rights with the Procedural Safeguards to the parents at the same time?

Answer: sure.

12. Follow up to transportation for private school students. If through the consultation with private schools the recommendation is that transportation not be the service or related service that is targeted, can transportation be excluded? As a part of the consultation process the district discuss and come to a consensus on the services that are to be offered.

Answer: No, transportation cannot be excluded. See: <http://www.dese.mo.gov/divspeced/Compliance/osepletter05.html> question and answer #37.

13. If a student with a disability is suspended from the bus, how does that affect the OSS days? I realize if the student attends, then it is not counted as a suspension. However, if the student does not attend school due to the bus suspension, is that counted as OSS?

Answer: Suspension from the bus only counts as an exclusion from school if the student's IEP requires transportation as a related service.

14. The Kansas City 33 School District is going to begin providing “standards based learning” which emphasizes instruction tailored to fit the needs of individual students & some other school districts provide this as well. What does DESE consider to be the difference, if any, between “special education” and this “standards based learning”?

Answer: Assuming the question is asking about standards-based IEPs, the idea is to develop an IEP in which the goals are aligned with the Missouri content standards – the Grade Level Expectations (GLEs) that support the school district's curriculum. We have encouraged and promoted standards-based IEPs as a best practice, and training regarding this is available through the Regional Professional Development Centers (RPDCs) by the consultants we contract for at the centers. The alignment of the IEPs to the GLEs is a way to ensure the student's access to the general education curriculum.

15. Does the Missouri Department of Elementary & Secondary Education's interpretation of IDEA require that an IEP be clear, meaningful, and/or accurate?

Answer: The Department does not require more than IDEA requires. There is no specific regulation under IDEA that says an IEP must be “clear, meaningful, and/or accurate.” There are many, many regulations, however, that make it clear what the required components are of an IEP and I believe there is a presumption that if an IEP contains those required components it will be clear. With that said, if a parent does not understand the contents or feels the IEP provisions are not clear, there are remedies available to them. They can request to reconvene the team to discuss the issues and see if the provisions can be clarified, they can contact the district's special education director, they can contact the Parent Training and Information Center (PTI) in Missouri, which is MPACT, they can contact one of our supervisor in the Compliance Section. The “meaningful” part is more difficult: there are court cases which discuss what is meant by the requirement to provide a free appropriate public education (FAPE). Some court decisions have held the FAPE requirement means to confer meaningful benefit. But the U.S. Supreme Court has held that FAPE means an IEP designed to confer “some” educational benefit. As far as accurate, there are remedies available to a parent who believes the IEP contains inaccurate information (e.g. request an amendment to the records under the Family Educational Rights and Privacy Act (FERPA)).

16. Are their Case Load Guidelines for Speech Pathologists?

Answer: Not under state and federal regulations implementing IDEA.

17. Related Service of Transportation: How should a team analyze this need when the student is not eligible for district transportation based on living close to the school of attendance per district guidelines? What guidance can DESE provide in determining when a parent is responsible for transportation and when there is a legitimate need or hardship that prevents parents from fulfilling their responsibility to transport? For example, when would it be appropriate to see two children from the same address, one rides the bus per the IEP; one is driven by mom to school? Is there a difference between an ECSE consideration vs. K-12 for transportation?

Answer: Ultimately the decision is an IEP team decision. The team needs to determine if the transportation is necessary as a related service, and if so, the IEP needs to reflect this. If the student needs only the same transportation all other kids would get, then it is likely the IEP team

will conclude it is not necessary as a related service. One question the team can ask is whether the kid will be able to get to school to access the services if the transportation is not provided.

18. If we have a student under a YCDD identification and parents want the child to attend the state school and we've explained that the child's diagnosis doesn't warrant state school or fit criteria. What recourse do we have?

Answer: If the student is not eligible for the state school, and the team believes that the least restrictive environment for that child is the school district, but the parent is requesting a segregated separate school, then a written notice of action refused is needed. The reasons for the denial of the request should encompass the fact that the IEP team believes the child's least restrictive environment is not a segregated school.

19. Going back to the question regarding private school transportation, could you clarify that being responsible for transportation is contingent upon who placed the student in the private school. Wouldn't the answer be "no" if the student was parentally placed in the private school?

Answer: The question and answer were in the context of describing the school district meeting its "proportionate share requirement" – and that requirement is based on a population of kids who are parentally placed in private/nonpublic schools.

20. If a child has an IEP but no longer needs service and parents cannot be reached. Can you dismiss the student and send paperwork home to update the family?

Answer: To exit a student requires an IEP meeting and written notice to the parents. You can hold the IEP meeting without the parent if you can document two attempts to schedule it so that they could participate.

21. Has there been consideration for the cost of special education in the K-12 setting if ECSE becomes "optional". ECSE is considered a cost-effective program by saving money for the state/ districts down the line in a child's education. Many, if not most, districts will not be able to provide ECSE with local dollars, as they, too, are struggling.

Answer: I think this would definitely be considered by the legislature as they deliberate, if a bill is filed.

22. Would it affect part C?

Answer: No; any change in ECSE we have been discussing as possible, has nothing to do with Part C of IDEA (birth to age 36 months).

23. If ECSE is waived, is there a push towards Universal Preschool? If ECSE is not funded by state / federal - and then responsibility of LEA, what happens to those with IEP's at the time?

Answer: If ECSE is changed by law to a voluntary state program, there would be no context for an IEP for any student participating. As for universal preschool, the department is in favor of voluntary universal preschool.

24. When calculating caseload #, does having a paraprofessional in the resource room affect the # any at all?

Answer: we do not have mandatory caseloads anymore. However, there is information in our state regulations on how to calculate if you want to do so.

25. Last year I heard that if the state did not participate in ECSE, there would be a voluntary program and district would get a per pupil rate. Would that still be the case?

Answer: The discussions I have heard about a possible change, did envision a per child payment from the state.

26. If a child is enrolled in a private school, and they are receiving special education services, for example speech, is the public school ultimately responsible for the transportation from the private school to the public school for services?

Answer: More than likely yes. See response to #12 above and the link to the website with guidance from the U.S. Department of Education.

27. Is it acceptable when minutes need to be added to IEP and CM is unable to reach the parent, can CM send home a letter an explanation for added minutes and that be acceptable for the amendment?

Answer: Follow the amendment procedures. If you need help with these requirements, please contact a supervisor with our Compliance Section.

28. Can you speak to the advantages of opting out of an Early Childhood education program? With so much emphasis/research indicating early intervention is critical to a child's success it seems contraindicated to discontinue these programs.

Answer: Possible advantages are local autonomy – the district can design and implement a program that works for their community without having to deal with the paperwork and regulations of IDEA.

29. What legislative committee is interested and driving this issue?

Answer: I don't know that there is a particular drive; I think the legislature as a whole is having to consider many different cost-cutting ideas, given Missouri's economic situation.

30. Parents of a Kindergarten student are requesting that the Speech Implementer who works with their child administer food trials to their child. She has a tracheotomy and feeding tube. Her doctor (cancer specialist) has wrote a note saying this is ok to be done in the school. Our speech pathologist who oversees our implementer does not feel that is a school appropriate therapy. The student has a full time nurse with her at all times and is medical fragile. The parents would be willing for her to go to the hospital to get therapy but would like for the school provided nurse to go with her. Again, the district does not feel that is an educational based therapy and both the implementer and therapist do not feel comfortable doing these trials.

Answer: See answer to #8 above.

31. If the IEP team determines that OT or PT is required as a related service, isn't there a requirement to list it as such on the IEP, and not call it something else?

Answer: Yes, if the IEP team determines that occupational therapy or physical therapy is a necessary related service, it must be listed on the IEP. Please see our Technical Assistance

document on OT/PT at:

<http://www.dese.mo.gov/divspeced/Compliance/documents/otptguidelines.pdf>

32. If a student with disabilities is in In School Suspension or in an alternative placement center, what must the special education services look like? Do these count toward days of suspension?

Answer: Services provided during ISS do not count as exclusions from school or OSS, as long as the IEP is being implemented, including the “placement” required by the IEP.

33. Did the Department file a request with the U.S. Department of Education to opt out of Early Childhood Special Education and did the Department request a funding waiver?

Answer: No, the Department did not request to opt out of ECSE; there is no requirement to get permission to “opt out.” Any opt out would be based on a change in Missouri law made by the legislature. No, the Department did not request a funding waiver. The Department sent a letter to the U.S. Department of Education asking if the state expenditures for ECSE could be eliminated from the calculation of the state’s maintenance of fiscal effort, IF the legislature were to change Missouri law to eliminate the mandatory services and instead put a voluntary state-funded program in place.